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7-25-97 VLB

(5)

June 19, 1997

Ms. Cynthia Quarterman
Director
Minerals Management Service
1849 C Street, N.W., Room 4212
Washington, D.C. 20240

The Minerals Management Service (MMS) Notice of Proposed Rulemaking for Oil Spill Financial Responsibility Requirements for Offshore Facilities, 62 Federal Register 14052 (March 25, 1997)

Dear Ms. Quarterman:

The American Petroleum Institute (API), the Independent Petroleum Association of America (IPAA), the National Mid-Continent Oil & Gas Association, the National Ocean Industries Association (NOIA), the Offshore Operators Committee (OOC), and the International Association of Drilling Contractors (IADC) appreciate MMS holding the June 5 public workshop on this rulemaking. The information exchanged at the workshop was useful and will help us to focus our comments on the proposed rulemaking.

However, MMS could benefit by providing additional information to us on three issues before the end of the comment period. The three major concerns are: the lack of definitions for many of the terms used in the rulemaking; any planned changes to the equations for calculating the amount of self-insurance based on the report from Talley & Associates, the MMS consultant; and methods for clarifying the calculation of worst case discharge. We request that MMS issue a supplemental notice or a revision to its proposal to clarify these ambiguities. The comment due date should also be amended to provide sixty days for comments after the supplemental notice or clarification is issued.

Prior to the workshop, we contacted MMS and provided a list of terms in the rulemaking that are undefined and could be subject to different interpretations. We feel strongly that these definitions should be clarified before the end of the comment period. While we understand that MMS plans to rely on standard definitions, some of the terms are not understood or defined in the standard sources. The potential for confusion because of the imprecision of these terms was discussed at the workshop, but the needed clarification was not provided. Since many of these terms apply to the demonstration of eligibility for self insurance, we will need to be able to evaluate the proposal in light of the definitions. The specific terms we would like defined are:

- §253.25 "net value of identifiable U.S. assets"
- "net value of plant, property, and equipment"
- §253.26 "pledged, unencumbered and unimpaired U.S. assets"

§253.28 "not affected by an oil spill discharge from a COF"
 "contingent encumbrances"
 "unencumbered U.S. assets" (e.g., how does this differ from
 net value of identifiable U.S. assets in §253.25)

The second area where we need information concerns the equations for self-insurance. We understand that MMS did not receive the Talley & Associates' (MMS' consulting accountant) report until after the proposed rule was published in the Federal Register. In light of the comments made by the accountant, we assume that MMS may plan some changes to the equations used to demonstrate eligibility for self insurance. If changes are planned on that basis, then the MMS should make public the equations it plans to use. It would be counter-productive for us to comment on the current equations if MMS already knows that it plans to change them. If MMS does not plan to change the equations from the proposed rule based on its accountant's report, then we would appreciate a statement to that effect.

Our final request deals with the calculation of worst case discharge. We understand that the specification of worst case discharge comes from the regulation on facility response plans, not from this proposed rule. But the calculation of worst case discharge is the basis for determining the amount of financial responsibility that must be demonstrated under the proposed rule. At the workshop, MMS personnel mentioned that a notice to lessees (NTL) was being considered under the facility response plan rule to clarify the calculation of worst case discharge. NTLs generally are not available to companies that are not currently lessees, including the many companies in state and coastal waters that would be newly covered by this proposed rule. Therefore, to assist industry in providing reasonable comments, and to avoid receiving many comments that may not be applicable to MMS' interpretation of worst case discharge, we recommend that MMS make a clarification widely available and allow 60 days for comments to be received. If this is not feasible, at a minimum MMS should note that a clarification is planned and describe the mechanism for and timing of the clarification. As discussed at the workshop, example scenarios for calculating worst case discharge could greatly facilitate understanding of MMS' intent. We have enclosed an example of the type of scenario that would be helpful for interpreting the calculation of worst case discharge.

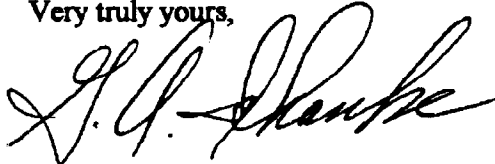
Our association members have many other concerns about the proposed rule, many of which were discussed at the workshop. While we do not require additional information from MMS to prepare reasonable comments on these issues, any additional clarifications, explanations, or indications of flexibility that MMS could provide as part of the supplemental notice or revised proposal would be beneficial. Our other areas of concern include: MMS' concept of a single designated applicant for a lease (which the scenarios presented and lengthy discussion at the workshop show to be unworkable); restrictions on layering that limit how companies may obtain insurance; limited time frame for compliance with the rule; and the paperwork burden of keeping an up-to-date list of all properties being covered, which is especially unnecessary for those offering the maximum amount of insurance. We also suggest that MMS begin examining methods for communicating with the operators in coastal and state waters who have not previously been subject to MMS regulation. We are concerned about how information regarding this rule will be communicated to these operators. We will provide comments on these and other issues prior to the end of the comment period.

Ms. Cynthia Quarterman

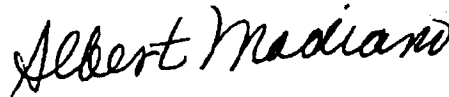
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We appreciate your prompt consideration of this request. If you have any questions about this request, please contact Glenda Smith of API (202/682-8317), Ben Dillon of IPAA (202/857-4722), Bob Moran of NOIA (202/347-6900), or Alby Modiano of Mid-Continent (202/638-4400).

Very truly yours,



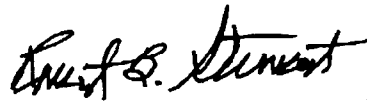
For Ronald L. Jones
Vice President
American Petroleum Institute



Albert Modiano
Vice President
Mid-Continent Oil and Gas Association



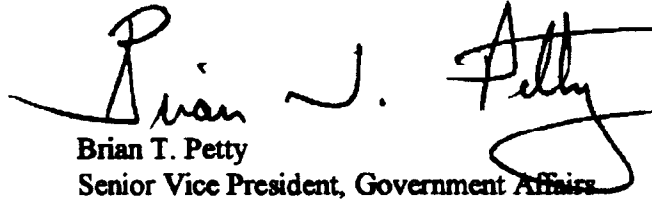
Ben Dillon
Vice President
Independent Petroleum Association of America



Robert B. Stewart
President
National Ocean Industries Association



W.L. Brister
Chairman, Executive Subcommittee
Offshore Operators Committee



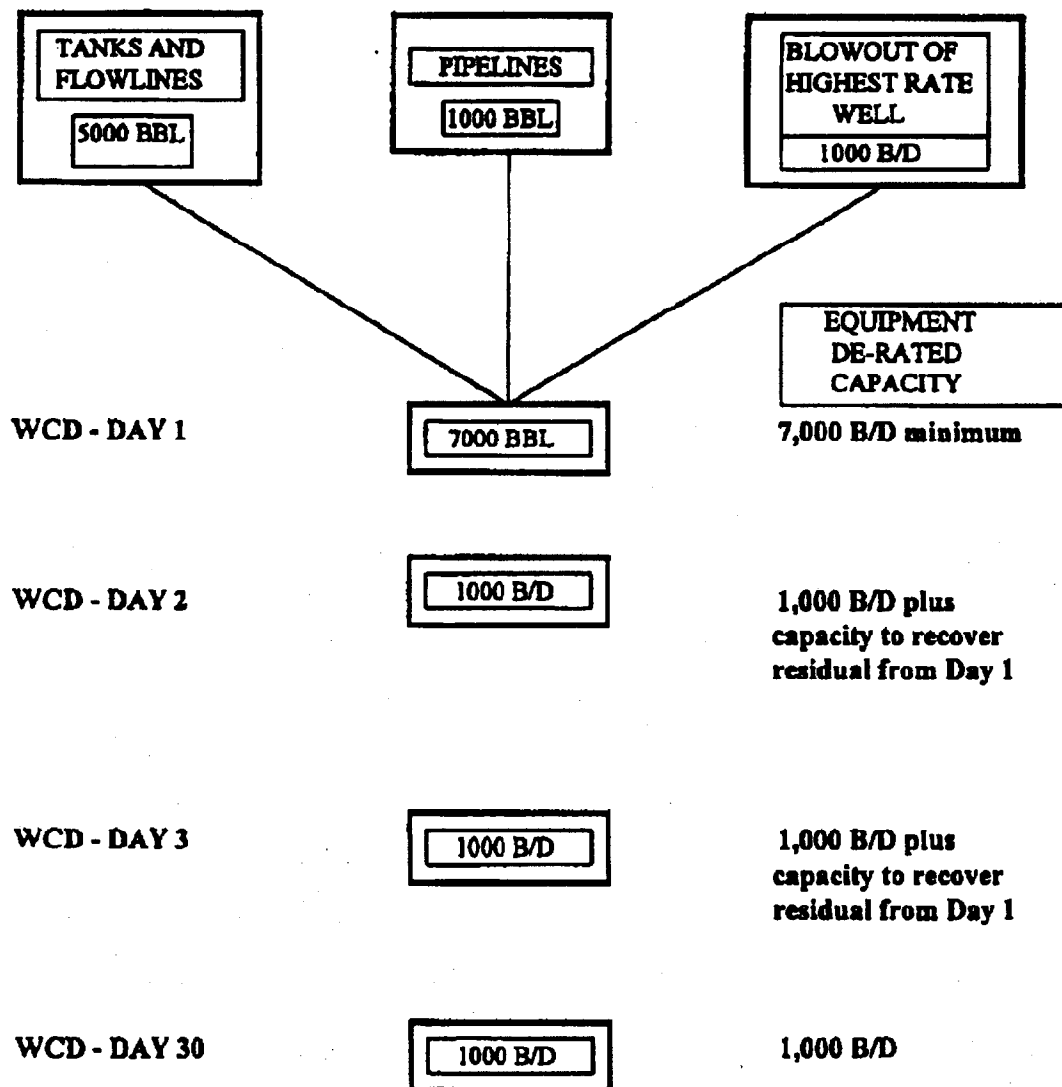
Brian T. Petty
Senior Vice President, Government Affairs
International Association of Drilling
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cc: Mr. Robert Armstrong
Assistant Secretary, Land and Minerals Management
Department of the Interior

Ms. Carolita U. Kallaur
Associate Director, Offshore Minerals Management

Mr. William S. Cook
Inspection and Enforcement Branch Chief

**FIGURE I
WORST CASE DISCHARGE
PLATFORM FACILITY**



NOTE: The equipment de-rated capacity will need to be sufficient to recovery the 1st day's release plus the volume released on subsequent days until equipment arrives on site and is recovering oil. As the initial WCD volume is recovered and the daily release rate from a blowout is stabilized, the equipment de-rated capacity can be reduced.